



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,152	11/28/2001	Mark A. Matko	H0001885 (591-00-042)	2119

7590 10/21/2004  
Leonard L Lewis  
Calfee, Halter & Griswold LLP  
800 Superior Avenue  
Suite 1400  
Cleveland, OH 44114-2688

EXAMINER

AGGARWAL, YOGESH K

ART UNIT	PAPER NUMBER
----------	--------------

2615

DATE MAILED: 10/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/996,152	<b>Applicant(s)</b> MATKO, MARK A.	
	<b>Examiner</b> Yogesh K Aggarwal	<b>Art Unit</b> 2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>08/15/2003</u> . | 6) <input type="checkbox"/> Other: ____  |

Art Unit: 2615

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art in view of Cogswell (US PG-PUB # 2002/0007702).

[Claim 1]

Applicant's admitted prior art teaches a conventional aiming assembly engaging a night vision camera on a first shaft and a second shaft with a nut attached to it (Paragraph 4). Applicant's admitted prior art fails to teach a tool comprising a handle dimensioned for receipt in an associated user's hand; and a tool head positioned at one end of the handle, the tool head having circular first and second drive means disposed on substantially diametrically opposite sides of the tool head for selective engagement with associated drive lugs of an aiming assembly.

However Cogswell teaches a tool (figure 7, element 10) comprising a handle (figure 7, element 70) dimensioned for receipt in an associated user's hand (See figure 1) and a tool head (figure 7, element 76) positioned at one end of the handle, the tool head having circular first and second drive means disposed on substantially diametrically opposite sides of the tool head for selective engagement with associated drive lugs of an aiming assembly (element 80 is disposed substantially diametrically opposite sides of the tool head for selective engagement with associated drive lugs of an aiming assembly, Paragraph 31). Therefore taking the combined teachings of Applicant's admitted prior art and Cogswell, it would have been obvious to one

Art Unit: 2615

skilled in the art at the time of the invention to have been motivated to have a tool comprising a handle dimensioned for receipt in an associated user's hand; and a tool head positioned at one end of the handle, the tool head having circular first and second drive means disposed on substantially diametrically opposite sides of the tool head for selective engagement with associated drive lugs of an aiming assembly in order to open and close a nut or a lug easily. The benefit of doing so would be so that the user would not have to take the gloves off during cold weather to engage and disengage a manual tool easily and quickly as taught in Cogswell (Paragraph 5).

[Claims 2 and 3]

Cogswell discloses in figure 7 a tool, which has a hollow cylindrical conformation and a smooth external surface.

[Claim 4]

Cogswell discloses in figure 7 that the tool head has a circular recess (element 80) extending inwardly from an end face at least a predetermined dimension to allow the tool head to be axially received over an associated nut when the first and second drive means are aligned with the associated drive lugs of the aiming assembly (Paragraph 31).

[Claims 5 and 6]

Cogswell discloses a tool head end having planar face wherein the handle and tool head have a hollow cylindrical conformation defined by a through bore extending continuously therethrough (See figure 7).

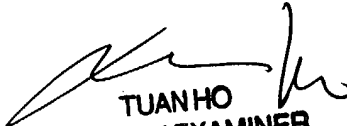
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh K Aggarwal whose telephone number is (703) 305-0346. The examiner can normally be reached on M-F 9:00AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Christensen can be reached on (703) 308-9644. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YKA  
October 7, 2004

  
TUAN HO  
PRIMARY EXAMINER